



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 6

1445 ROSS AVENUE

DALLAS, TEXAS 75202-2733

FEB 02 2012

CERTIFIED MAIL: RETURN RECEIPT REQUESTED (7010 2780 0002 4357 7771)

Mr. Charles Maguire, Division Director

Water Quality Division (MC-145)

Texas Commission on Environmental Quality (TCEQ)

P.O. Box 13087

Austin, TX 78711-3087

Re: Texas Pollutant Discharge Elimination System (TPDES) Permits

Dear Mr. Maguire:

Thank you for your letter dated December 2, 2011, which describes TCEQ's efforts in resolving many of EPA's objections to permit issuance that were referenced in EPA's December 2, 2010 letter to TCEQ. EPA encourages TCEQ to expedite resolution of the previously cited facilities (see Enclosure 1) in the very near future. In order to continue our efforts to ensure timely issuance/reissuance of permits that are in compliance with the Clean Water Act (CWA) and the applicable federal regulations, also please see Enclosure 2. These additional facilities currently have pending draft permits and issuance has been delayed typically due to Interim Objections and Requests for Additional Information issued by EPA over approximately the last year.

In accordance with Chapter 1, III.A.3. of the *Memorandum of Agreement (MOA) Between the Texas Natural Resource Conservation Commission (TNRCC) and the U.S. Environmental Protection Agency, Region 6 Concerning the National Pollutant Discharge Elimination System (NPDES)*, EPA is requesting that TCEQ provide revised draft permits which address EPA's concerns for the specified facilities. The MOA calls for TCEQ to address EPA's concerns within six (6) months of a written request. EPA will review the revised draft permits and, as appropriate, will formally withdraw its opposition to permit issuances when concerns are resolved. TCEQ may then proceed with its permitting process.

Additionally, and as we have recently discussed, there are several programmatic concerns which need to be addressed. The following are a few of the concerns that appear to be relevant to most individual Texas Pollutant Discharge Elimination System (TPDES) permits for both municipal and industrial facilities. As required by the CWA, an applicant must apply for a permit in order to receive authorization to discharge pollutants at specified levels to a specific location(s). Currently, TPDES permits describe the discharge path which is authorized by the permit, but they do not accurately specify the authorized discharge point(s). Typically, the most convenient way to provide this required information is to include the latitude and longitude (i.e., to the nearest second) for each outfall on page 1

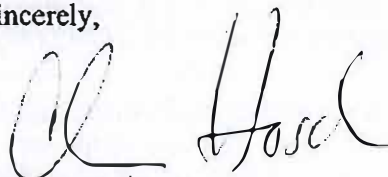
of the permit. Another general program concern is the "boilerplate" language under "Permit Conditions," which states "[t]here shall be no unauthorized discharge wastewater or any other waste. For the purpose of this permit, an unauthorized discharge is considered to be any discharge of wastewater into or adjacent to water in the state at any location not permitted as an outfall or otherwise defined in the Other Requirements section of this permit." The second sentence of the referenced boilerplate language must be removed. Under the CWA and federal regulations, an outfall must be defined (i.e., typically on page 2 of the permit) such that the permit includes the necessary effluent limitations and monitoring requirements. Results of all such monitoring must be reported on a discharge monitoring report (DMR) and entered into the national database. EPA requests that TCEQ immediately take the necessary steps to accurately specify all authorized discharge point(s) and remove the above referenced "boilerplate" language for all new and reissued permits. In the interim, EPA will evaluate these concerns in draft permits on a case-by-case basis.

EPA acknowledges TCEQ's initial efforts to respond to EPA's concerns regarding TCEQ's failure to implement the temperature criteria contained in the *Texas Surface Water Quality Standards* (TSWQS) in many TPDES permits with thermal discharges. Since the current *Procedures to Implement the Texas Surface Water Quality Standards* (IP) do not provide the details necessary to consistently implement the temperature criteria, TCEQ outlined a draft strategy in October 2011, of some of the steps necessary to evaluate thermal discharges. TCEQ and EPA staffs have discussed some of the necessary refinements, and in December 2011, EPA provided an outline to TCEQ of some of the major components which must be addressed in the IP. It is anticipated that TCEQ will submit a more encompassing thermal strategy shortly along with a proposed schedule for formalizing additions to its IP. In the interim, EPA will evaluate temperature concerns on a case-by-case basis.

Finally, EPA has recently raised concerns and requested additional information in interim objections for several mining permits. It is noted that your staff recently contacted EPA staff with a proposed resolution for one of the draft permits. The proposed revisions are to include the addition of numerous outfalls with limitation, monitoring and DMR reporting requirements, as well as, the removal of "outfall averaging" language. EPA is optimistic that revised draft permits for all of the cited mining permits will be forwarded shortly by TCEQ and that future draft permits for mining operations will also reflect the necessary permit requirements.

We appreciate the continued cooperation and support from you and your staff in administering the TPDES permitting program. EPA is available to assist TCEQ in any way possible. If you have any questions, please feel free to contact me at (214) 665-7170.

Sincerely,



Claudia V. Hosch
Associate Director
Water Quality Protection Division

Enclosures

ENCLOSURE 1

(Permits cited in EPA's 12/2/10 letter to TCEQ that have not been resolved and issued.)

Texas Municipal Permits	NPDES ID	State ID	EPA Letter	Expiration
1 City of Bridge City	TX0025500	WQ0010051001	2/7/2002	3/1/2001
2 City of Port Neches	TX0022926	WQ0010477004	1/30/2009	8/1/2006
3 City of Houston-Metro	TX0069736	WQ0010495152	7/1/2009	9/1/2008
4 City of Humble	TX0034401	WQ0010736002	10/29/2009	12/1/2009
Texas Industrial Permits	NPDES ID	State ID	EPA Letter	Expiration
1 Comanche Peak (Luminant) (TCEQ response under review)	TX0065854	WQ0001854000	2/28/2008	3/1/2008
2 FPLE Forney (application withdrawn/new application pending)	TX0124419	WQ0004359000	3/24/2008	10/1/2006
3 Exxon Mobil/PL Propylene	TX0006068	WQ0000393000	11/5/2008	9/1/2007
4 Abitibi (application withdrawn/new application pending)	TX0001643	WQ0000368000	4/15/2009	12/9/2008
5 Luminant (Morgan Creek) (TCEQ response under review)	TX0001171	WQ0000554000	5/22/2009	12/1/2009
6 Alcoa (Rockdale)	TX0000876	WQ0000395000	9/16/2009	5/1/2009
7 South Texas Electric Cooperative, Inc (Sam Rayburn Power)	TX0005118	WQ0001521000	1/28/2010	2/1/2010
8 Shell Oil Company and Deer Park Refining	TX0004871	WQ0000403000	2/8/2010	7/16/2010
9 Oxy Vinyls, LP (Deer Park PVC Plant)	TX0007412	WQ0000305000	2/12/2010	10/1/2008
10 STP Nuclear Operating Company (South Texas Project)	TX0064947	WQ0001908000	2/25/2010	12/1/2009
11 OXEA Corporation (Bay City Plant)	TX0006017	WQ0000455000	3/10/2010	12/1/2009
12 Alcoa World Alumina (Alcoa Point Comfort Operations)	TX0004715	WQ0000394000	3/26/2010	9/1/2001
13 Lower Colorado River Authority (Thomas Ferguson Power)	TX0057576	WQ0001369000	4/7/2010	12/1/2009
14 BASF (Freeport)	TX0008788	WQ0003977000	4/14/2010	7/1/2009
15 Marathon Petroleum, TX City (applic. withdrawn/new applic. pending)	TX0003697	WQ0000990000	4/15/2010	11/1/2008
16 WRB & ConocoPhillips Refinery (Borger)	TX0009148	WQ0001064000	4/30/2010	1/30/2010
17 Premcor Refining (Valero Port Arthur) (TCEQ response under review)	TX0005991	WQ0000309000	6/10/2010	12/1/2009
18 Valero Refining- Texas, L.P. (West Plant)	TX0063355	WQ0001909000	7/16/2010	6/1/2010
19 American Chrome & Chemicals, L.P. (Corpus Christi)	TX0004685	WQ0000349000	8/10/2010	6/1/2010
20 Equistar Chemicals, LP (Corpus Christi Complex)	TX0076996	WQ0002075000	9/22/2010	6/1/2010
21 Lubrizol Corporation (TCEQ previously withdrew draft permit, 7/30/08)	TX0007048	WQ0000639000	9/9/2011	5/1/2008

updated 2/1/12

ENCLOSURE 2(Permits not previously cited in EPA's 12/2/10 letter to TCEQ.)**Texas Municipal Permits**

	NPDES ID	State ID	EPA Letter	Expiration Date
1 City of New Boston	TX0026018	WQ0010482001	3/24/2011 (5/23/2011)	1/1/2011
2 City of Pampa	TX0027618	WQ0010358002	3/17/2011	10/1/2010
3 North Texas Municipal Water District	TX0126110	WQ0014469001	6/2/2011	3/1/2011
4 Timber Lane Utility District	TX0046680	WQ0011142002	8/23/2011	2/1/2012
5 City of Weatherford	TX0047724	WQ0010380002	9/12/2011	9/1/2011
6 City of Whitehouse	TX0072770	WQ0011222001	9/26/2011	8/1/2011
7 City of Denton	TX0047180	WQ0010027003	10/13/2011	10/1/2010
8 Texas Department of Criminal Justice	TX0115169	WQ0013804001	10/16/2011	9/1/2011
9 City of Ore City	TX0024236	WQ0014389001	12/20/2011	2/1/2012
10 Trinity River Authority (Mountain Creek)	TX0025011	WQ0010348001	2/1/2012	9/1/2011

Texas Industrial Permits

	NPDES ID	State ID	EPA Letter	Expiration Date
1 Gulf Coast Waste Disposal Authority (Bayport Complex)	TX0005380	WQ0001054000	10/13/2010	11/1/2005
2 The Goodyear Tire and Rubber Company (Beaumont)	TX0005061	WQ0000519000	11/24/2010	7/1/2010
3 MeadWestvaco Texas, L.P. (Evadale Mill)	TX0003891	WQ0000493000	11/30/2010	8/1/2010
4 Southwestern Electric Power Company (Knox Lee Power)	TX0000540	WQ0001307000	1/31/2011	12/1/2010
5 Gulbrandsen Technologies, Inc. (La Porte Facility)	TX0006157	WQ0001785000	2/16/2011	10/1/13, Mod.
6 Southwestern Electric Power Company (Welsh Power)	TX0063215	WQ0001811000	2/24/2011	2/1/2011
7 Oxy Vinyls, L.P. (Battleground Facility) La Porte	TX0008150	WQ0001539000	2/23/2011	2/20/2011
8 Valero Refining- Texas, L.P. (Valero Texas City Refinery)	TX0006009	WQ0000449000	3/30/2011	11/1/2010
9 ExxonMobil Oil Corporation dba Mobil Chemical Co.	TX0004227	WQ0000462000	4/8/2011	8/1/2011
10 AEP Texas North Company (Paint Creek Power Station)	TX0001392	WQ0000963000	4/8/2011	3/1/2011
11 Chevron Phillips Chemical Company LP (Borger Plant)	TX0095869	WQ0002484000	5/26/2011	10/1/12, Mod/Renew
12 Southwestern Public Service Co. (Nichols/Harrington)	TX0124575	WQ0001990000	5/26/2011	10/1/2010

updated 2/9/2012

ENCLOSURE 2(Permits not previously cited in EPA's 12/2/10 letter to TCEQ.)**Texas Industrial Permits**

	NPDES ID	State ID	EPA Letter	Expiration Date
13 The Sabine Mining Company (South Hallsville Mine No. 1)	TX0088935	WQ0002538000	6/28/2011	4/1/2011
14 Total Petrochemicals, USA, Inc. (Port Arthur Refinery)	TX0004201	WQ0000491000	7/29/2011	8/1/2011
15 Formosa Utility Ventures, Ltd. And Formosa Plastic Corp.	TX0085570	WQ0002436000	withdrawn by TCEQ	8/1/2010
16 Seadrift Coke L.P.	TX0090948	WQ0002586000	8/18/2011	12/1/2011
17 CITGO Refining & Chemicals Company LP (East & West)	TX0006211	WQ0000467000	8/30/2011	6/1/2010
18 Luminant Mining Company LLC (Three Oaks Mine)	TX0124311	WQ0004348000	9/14/2011	9/1/2011
19 Parco Mining, Inc., Palafox Mine	TX0096806	WQ0002733000	10/19/2011	9/1/14, Mod.
20 General Permit for Petroleum Bulk Stations and Terminals	TXG340000	N/A	10/20/2011	4/23/2012
21 ExTex LaPorte Limited Partnership (Hadley Steam Electric)	TX0001198	WQ0000552000	11/1/2011	9/1/2011
22 City of Garland Ray Olinger Steam Electric	TX0001848	WQ0001923000	11/16/2011	10/1/2011
23 NE TX & East TX Elec.Coops.(owners)//Entergy(operator)	TX0124516	WQ0004370000	11/28/2011	4/1/2011
24 U.S. Steel Tubular Products, Inc., Lone Star, TX	TX0000027	WQ0000348000	12/14/2011	2/1/2011
25 Gerdau Ameristeel US Inc. (Orange Co.)	TX0067695	WQ0001971000	12/20/2011	8/1/2011
26 Pattillo Branch Power Company, LLC (Fannin Co.)	TX0131997	WQ0004886000	12/22/2011	New
27 Luminant Generation Company, Lake Hubbard Steam Elec.	TX0001023	WQ0001245000	1/4/2012	10/1/2011
28 Chevron Phillips Chemical Co, Pasadena Plastics Complex	TX0007552	WQ0000815000	1/11/2012	9/1/2011
29 Georgia-Pacific Wood Products (Cleveland Plywood Mill)	TX0077143	WQ0002196000	1/12/2012	2/1/2012